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Katie Hales
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/040,521

Attorney Docket: DP-304537

Filing Date: 01/07/2002

Applicant: Harald Klode et al.

Group Art Unit: 3683

Examiner: Torres, Melanie

Title: MOTOR ACTUATED PARK BRAKE FOR A VEHICLE

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

RESPONSE TO OFFICE ACTION

Sir:

In response to the Office Action mailed January 25, 2005, please consider the

remarks below.

The Examiner's recognition of Applicants' invention by the allowance of claims 18-20, and the indication of allowable subject matter in claims 3, 7, 9-11, 14, 16 and 17 is gratefully acknowledged.

Serial No. 10/040,521

Double Patenting Rejection

Claims 2, 4-6, 8, 12 and 13 were rejected under the judicially created doctrine of obviousness-type double patenting over United States Patent No. 6,802,398.

The doctrine of double patenting was judicially created to prevent an improper extension of a patent term, at a time when the patent term extended 17 years from the date of issuance. In this instance, United States Patent No. 6,802,398 claims priority of patent application serial no. 10/040,521, filed on January 7, 2002. The present application was concurrently filed on January 7, 2002. Under the present statute, the maximum term of both patents would extend 20 years from the priority date and would expire concurrently. Thus, the issue of double patenting does not arise.

Nevertheless, in order to advance prosecution, enclosed is a Terminal Disclaimer disclaiming any portion of the term of any patent issued on the present application that might extend beyond the maximum term of the '398 patent.

Accordingly, it is respectfully requested that the rejection of the claims based upon the doctrine of double patenting be reconsidered and withdrawn, and that the claims be allowed.

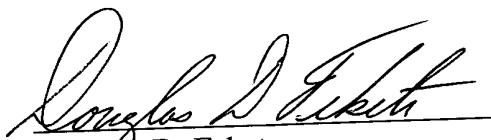
Conclusion

Claim 3, 7, 9-11, 14, 16 and 17 were objected to as dependent upon a rejected base claim. Claims 7, 9-11, 14, 16 and 17 are dependent upon claim 4. For the reasons herein, it is believed that the base claim 4 is now allowable. It is pointed out that claim 3 is independent, and was allowed in the prior Office Action. Accordingly, it is requested that the objection be withdrawn, and that all claims be allowed.

If it would further prosecution of the application, the Examiner is urged to contact the undersigned at the phone number provided.

The Commissioner is hereby authorized to charge any fees associated with this communication to Deposit Account No. 50-0831.

Respectfully submitted,



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